

3-4-2

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING (RULE 53(b)(1))

(DO NOT USE FOR CIPs)

Commissioner for Patents  
Washington, D.C. 20231

jc658 U.S. PTO

Customer #26619

Sir:

02/28/02

Please file a ☒ Continuation ☐ Divisional application under 37 CFR 1.53(b)(1) of pending prior application of

Inventor: Klein et al.

App No: 09/193,834

Filed: 11/17/98

Title: **Methods of Creating Constructs Useful for  
Introducing Sequences into Embryonic  
Stem Cells**

Group Art Unit: 1632

Examiner: Paras Jr., P.

Deposit Account No. 50-1271

Docket/Order No. MES-01-CON2

Parent Docket No. MES-01-CIP

Date: February 28, 2002

11050 U.S. PTO  
10/067522  
02/28/02

1. To effect the above-requested filing today, enclosed is a copy of the prior application including:

- 20020228  
02/28/02
- a. 43 Pages of the specification, claims and abstract
  - b. 10 Sheets of ☒ informal / ☐ formal drawings
  - c. ☒ Copy of signed declaration or oath as originally filed in prior application enclosed
  - d. ☐ No Declaration or fee is enclosed; this is a filing under Rule 53(f).
  2. ☒ Prior application is assigned to **DELTAGEN, INC.** by Assignment recorded **02/08/99** at Reel/Frame **9749/0379**.
  3. ☒ Enclosed is an Assignment and cover sheet. Return recorded Assignment to the undersigned.  
(Assignments in parent must be refiled with new cover sheets if they are to be recorded in this continuing application.)
  4. ☒ The power of attorney in the prior application is to **DELTAGEN, INC.**, whose current address is below.
  5. Address all future communications to **DELTAGEN, INC., 740 Bay Road, Redwood City, CA 94063**.
  6. Amend the specification by inserting before the first line:--This is a ☒ continuation ☐ division of Application No. **09/193,834** filed **11/17/98**.--
  7. ☒ It has been determined that this continuing application is entitled to small entity status.
  8. Petition to extend the life of the above prior application to at least the date hereof  
☒ is being concurrently filed in that prior application.  
☐ was previously filed in that prior application.  
☐ is not necessary for co-pendency.

9. ☒ **IDS:** Enclosed is Form PTO-1449 listing all documents cited by Applicant and the PTO in the parent application/s relied on under 35 USC 120 and referred to above. Per Rule 98(d) copies of those documents are not required now. Please consider those documents and advise that they have been considered in this new application by returning a copy of the enclosed Form PTO-1449 with the Examiner's initials in the left column per MPEP 609.

10. ☐ Enclosed is a Rule 103(a) Petition to Suspend Action.

11. ☒ Preliminary Amendment to be entered before fee calculation: (Do not amend here except to correct improper multiple dependencies or to cancel whole claims). **Please cancel claims 1-50.**

12. ☒ Submission of **Sequence Listing** in accordance with **37 C.F.R. §§ 1.821-1.825**.  
☒ Paper Copy;  
☐ Computer Readable Copy – **Located in Parent Application 09/193,834, Filed 11/17/98**; and  
☒ Statement verifying **Paper** and **Computer Readable Copy** are identical.

FILING FEE: The following filing fee is based on claims as filed and changed by preliminary amendment in item 11:

13. Basic Filing Fee .....	\$ 355.	\$ 355.00
14. Total Claims:	minus 20 =	x 9. = + .00
15. Independent Claims:	minus 3 =	x 42. = + .00
16. Multiple dependent claim:	+ 140.	= + .00
TOTAL FILING FEE =		\$ 355.00
17. If petition box is checked, add fee	+ 65.	.00
18. If "assignment" box is checked, add recording fee .....	+ 40.	+ 40.00
19. TOTAL FEE: (carry forward to Item 24)		\$ 395.00

20. ☒ The enclosed Preliminary Amendment is to be entered after assigning Serial Number.

ADDITIONAL FEE CALCULATION FOR PRELIMINARY AMENDMENT:

	Remaining claims after amendment	# of claims pre- viously paid for	Present Extra		Additional fee
21. Total Claims:	11	minus 20 =	0	x 9. =	+ 0
22. Independent Claims:	02	minus 3 =	0	x 42. =	+ 0
23. If amendment adds multiple dependent claim for the first time:				+ 140. =	+ 0
ADDITIONAL FEE =					\$ 0
24. Plus fee from item 18:					395.00
25. TOTAL FEE <input checked="" type="checkbox"/> Charge Deposit Account #50-1271 OR Check enclosed					\$ 395.00

**CHARGE STATEMENT:** The Commissioner is hereby authorized to charge any missing or insufficient fees, or credit any overpayment, to our Deposit Account/Order No. above, for which purpose a duplicate copy of this sheet is enclosed.

DELTAGEN, INC.

740 Bay Road  
Redwood City, CA 94063  
Tel. (650) 569-5100  
Fax. (650) 569-5280

By Mariette A. Lapi  
**MARIETTE A. LAPIZ, Reg. No. 44,202**

Express Mail Label:  
Date of Deposit:

EV 007607665 US  
February 28, 2002

I certify that this paper and listed enclosures are being deposited with the U.S. Post Office "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the above date, addressed to Commissioner for Patents, Box Patent Application, Washington, D.C. 20231

Joyce Vogel